

United States Department of the Interior  
Bureau of Land Management

## ASSISTANCE AGREEMENT

PAGE OF PAGES

1. AGREEMENT NO. HAA 032013

2. TASK ORDER NO.

3. TYPE OF AGREEMENT (Check one)

☐ GRANT☒ COOPERATIVE AGREEMENT

NOTE: By signing this document, the recipient accepts this agreement and agrees to perform in accordance with all the enclosed terms, conditions, and documents attached hereto.

## 4. NAME ADDRESS AND PHONE NO. OF ASSISTANCE OFFICER

Yuri Yoshida  
Bureau of Land Management, OR952  
P.O. Box 2965  
Portland, Oregon 97208  
503-808-6229

## 5. NAME, ADDRESS AND PHONE NO. OF RECIPIENT

Otley Brothers, Inc.  
Attn: Fred Otley  
40926 South Diamond Lane  
Diamond, OR 97722  
541-493-2489

## 6. NAME, ADDRESS AND PHONE NO. OF ASSISTANCE REPRESENTATIVE

Rhonda Karges  
Bureau of Land Management, Burns District Office  
28910 Highway 20 West  
Hines, Oregon 97738  
541-573-4400

## 7. NAME, ADDRESS AND PHONE NO. OF RECIPIENT'S PROJECT MANAGER

Otley Brothers, Inc.  
Attn: Fred Otley  
40926 South Diamond Lane  
Diamond, OR 97722  
541-493-2489

## 8. PROGRAM STATUTORY AUTHORITY P.L. 104-208 (Wyden Amendment) &amp; FLPMA

## 9. STARTING DATE Same as date in block 17c

## 10. EFFECTIVE DATE Same as date in block 17c

## 11. COMPLETION DATE 5 years from date shown in 17c

## 12. TYPE OF RECIPIENT (Check one)

- ☐ STATE  
☐ LOCAL GOVERNMENT  
☐ INDIAN TRIBAL GOVERNMENT  
☐ EDUCATIONAL INSTITUTION  
☐ INDIVIDUAL  
☒ FOR-PROFIT ORGANIZATION  
☐ NON-PROFIT ORGANIZATION  
☐ OTHER (Specify) \_\_\_\_\_

## 13. FUNDING INFORMATION

	Recipient	BLM
This obligation	\$	\$ 65,000.00
Previous obligation	\$	\$
Total Obligation	\$	\$ 65,000.00
Share Ratio	0 %	100%

## 14. ACCOUNTING AND APPROPRIATION DATA

OR027/1120-JH-CWW/R/25-22 = \$65,000

## 15. PROJECT TITLE AND BRIEF SUMMARY OF THE PURPOSE AND OBJECTIVES.

Steens Mountain Wilderness Fence – as described herein.

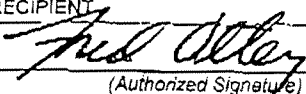
## 16a. NAME AND TITLE OF SIGNER (Type or print)

Fred Otley, Otley Brothers, Inc.

## 17a. NAME AND TITLE OF ASSISTANCE ORDERING OFFICER (Type or print)

Yuri Yoshida, Assistance Officer

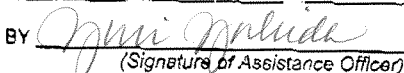
## 16b. RECIPIENT

  
 (Authorized Signature)

## 16c. DATE SIGNED

9-24-03

## 17b. UNITED STATES OF AMERICA

 BY   
 (Signature of Assistance Officer)

## 17c. DATE SIGNED

9/22/03

I. Statement of Joint Objectives

A. Purpose. This agreement is made and entered into by the Department of the Interior, Bureau of Land Management, Burns District Office (BLM), and the Otley Brothers, Inc., Diamond, Oregon, for the purpose of constructing, maintaining and monitoring a fence in Kiger Gorge to exclude livestock from the No Livestock Grazing Area within the Steens Mountain Wilderness.

B. Objective. Otley Brothers, Inc., will purchase the materials for a panel-type fence and construct the fence at the mouth of Kiger Gorge, a portion of which will be constructed on Otley Brothers Ranch, to exclude livestock from the No Livestock Grazing Area within the Steens Mountain Wilderness. The Otley Brothers, Inc., will maintain this fence and provide an easement across their private land for the fence.

C. Authority. The basis for this agreement is found on support or stimulation of a public purpose authorized by the following Federal statute(s):

1. Federal Land Policy and Management Act of 1976 (Public Law 94-579, Section 307 (b)).
2. Wyden Amendment under the Omnibus Consolidated Appropriations Act of 1997 (PS 104-208, Section 124), as amended (PL 105-277, Section 136).

D. Benefits. The activities to be undertaken through this agreement are in furtherance of the BLM and the Otley Brothers, Inc., mission by providing the following benefits:

1. Exclude livestock from the No Livestock Grazing Area within the Steens Mountain Wilderness as mandated by the Steens Act.
2. Construction of the fence on private land will provide better access to the area for construction and maintenance.
3. Fence will allow migration of elk up and down Kiger Gorge while limiting movement of domestic livestock.
4. Fence construction and maintenance access to the Kiger Gorge fence location is only accessible through Otley Brothers, Inc. property.
5. Partnership with the Otley Brothers Inc. for fence materials, construction, and maintenance will ensure federal monies stay in an already depressed local economy.
6. Maintenance of the fence by the Otley Brothers Inc. will alleviate the necessity of BLM staff to maintain the fence for an overall cost savings to the government. This will also reduce BLM vehicle maintenance and fuel.
7. Constructing and maintaining the fence across private land would result in less impact to the Steens Mountain Wilderness.

## II. Definitions.

A. Agreement: This cooperative agreement.

B. Assistance Officer (AO): The BLM's Assistance Officer. The AO is the only individual authorized to obligate funds, award, modify or terminate the agreement or any task order (TO) thereto. The AO is responsible for issuing TOs, monitoring the agreement and TOs for compliance, enforcing the agreement provisions, issuing timely performance and payment approvals, terminating the agreement or any TO thereto and closing out the agreement.

C. Assistance Representative (AR): The BLM's Assistance Representative. The AR will be designated for the purpose of administering the technical aspect of the agreement. The AR is authorized to clarify technical requirements, and to review and approve work which is clearly within the scope of the work specified in this agreement. The AR is not authorized to issue changes or in any other way modify this agreement.

D. The Bureau of Land Management (BLM). May also be referred to as Bureau.

E. The Code of Federal Regulations (CFR).

F. Fiscal Year (FY): The Federal fiscal year which extends from October 1 of one year through September 30 of the following year.

G. The Otley Brothers Ranch. May also be referred to as recipient.

H. Not-to-Exceed (NTE) Amount: The maximum Federal funding amount.

I. The Office of Management and Budget (OMB).

J. Project Inspector (PI): The BLM's project inspector. At the time of award, a BLM employee(s) may be appointed as the PI. If appointed, the PI will be responsible for providing on-site inspection of the work and for giving the Otley Brothers, Inc., representative any special instructions, guidance, or training necessary to complete or perform the work. The PI will not be authorized to issue changes or in any way modify the agreement.

K. Project Manager: The recipient's Project Manager.

L. Responsible Official: The recipient's Responsible Official. The responsible official is the individual who is authorized to act for the recipients organization and commit the recipient to compliance with the terms and conditions of this agreement.

M. Task Order (TO): The order which is issued against the agreement to obligate funds for specific services or work to be accomplished.

N. Assistance Ordering Officer (AOO): The BLM's Assistance Ordering Officer. The AOO is an individual authorized by the AO to issue TOs against this agreement. The AOO is responsible for obligating the funds, monitoring for compliance, enforcing the provisions, issuing

timely performance and payment approvals, modifying, terminating, and closing out the TO. The AOO is not authorized to issue changes or in any other way modify this agreement. A Project Inspector may be appointed by the AOO for the TO.

### III. Project Management Plan.

#### A. The Otley Brothers Inc. agrees to:

1. Provide access to BLM for a BLM owned, panel-type fence on private land outside of the Steens Wilderness described as: An area of land approximately 100 feet in width north of the south boundary of T32S, R33E, Section 26, lot 7, angling northwest to a rim approximately 300 feet more or less north of the south boundary (see attached map). The easement will be for a term of 50 years unless otherwise abandoned by BLM.

2. Provide for a helicopter staging area at the Otley Brothers, Inc., cabin located in T32S, R33E, Section 15.

3. Provide a land site for refueling of the helicopter at the Otley Brothers, Inc., residence located in T29S, R32E, Section 25.

4. Provide access to BLM to store fence materials and related supplies or equipment; land helicopter transporting materials, supplies, equipment or people to administer, construct, maintain, or survey the Kiger livestock-free fence; camp, operate equipment or other necessary operations to maintain a functional livestock-free fence. The easement would be an area of land approximately 220 yards north of the south boundary of T32S, R33E, Section 26, Lot 7. The easement will be for a term of 50 years unless otherwise abandoned by BLM.

5. Provide a 100 foot wide access to BLM to travel with mechanized and motorized equipment from the County Road near Diamond, Oregon, through the Otley Brothers, Inc., private residence to further access private and public lands via the Kiger Road/Trail to monitor and maintain the Kiger Gorge fence (see attached map). Access will be granted for a term of 50 years unless otherwise abandoned by BLM.

6. Purchase all fence materials for construction and maintenance according to attached fence design.

7. Construct the panel-type fence across Kiger Gorge, T32S, R33E, Section 26, lots 7 and 8, and Section 27, SE1/4SE1/4SE1/4, as shown on the attached map and according to project construction specifications as soon as possible but no later than July 20, 2004 and prior to cattle being turned into the private pasture.

8. Maintain panel-type fence in mouth of Kiger Gorge for a period of 5 years which may be extended.

9. Comply with specific BLM guidelines on public lands including the Decision Record for the Kiger Gorge No Livestock Grazing Boundary Fence (amendment to Decision Record and Environmental Assessment #OR-027-01-27).

10. Maintain the Kiger Road/Trail including limited excavation, leveling, rock removal, vegetation pruning and cutting to keep road and crossings open, maintained and safe for use.

11. Allow BLM to transport damaged fence materials via helicopter from the Kiger fence area through private land to Otley Brothers, Inc., cabin area (T32S, R33E, section 15).

12. Dispose of all damaged fence materials.

B. The BLM agrees to:

1. Deliver all fencing supplies to an area of land approximately 220 yards north of the south boundary of T32S, R33E, Section 26, Lot 7.

2. Provide access through federal land to Otley Brothers, Inc. for purposes of moving livestock and traveling with mechanized and motorized equipment to access private land and administer issues relating to the livestock-free boundary of the Steens Mountain Wilderness on the Kiger Road/Trail. The public land segment of Kiger Road/Trail generally runs from the mouth of Mud Creek south past the mouth of Big Pasture Creek to private land in the lower Kiger Gorge, crossing through T31S, R34E, Sections 6, 7, 18, 19 and 30 (see attached map).

3. Allow Otley Brothers, Inc., to maintain the Kiger Road/Trail including limited excavation, leveling, rock removal, vegetation pruning and cutting to keep road and crossings open, maintained and safe for use.

4. Provide payments to the Otley Brothers, Inc., in accordance with Section VI, Financial Support, and Section VII, Payments, of this agreement and applicable OMB and Treasury Regulations.

5. Comply with specific guidelines relating to private lands.

6. Ensure boundary signs are erected and replaced as necessary along the boundary between Otley Brothers, Inc., private and public lands (T32S, R33E, section 26, lot 7 and T32S, R33E, section 35, lot 2) paralleling the Kiger Gorge fence.

7. Remove all damaged fence material via helicopter from the Kiger Gorge fence location and transport to the Otley Brothers, Inc., cabin.

8. Assist Otley Brothers, Inc., with monitoring of the Kiger Gorge fence.

9. Comply with official Decision Record for the Kiger Gorge fence area regarding resource impacts such as raking out four-wheeler tracks caused by construction of the fence.

IV. Term of Agreement. This agreement shall become effective on the date of signature of the BLM Assistance Officer and shall remain in effect until September 30, 2008, unless terminated

in accordance with the provisions of 43 CFR, Subpart F, Section 12.961.

V. Task Orders (TO).

A. Issuance. If any TOs are issued they will be issued in writing by the Assistance Officer and must be signed by both the authorized responsible official and the AO to be effective.

B. Contents. A TO will contain:

1. The specifications or statement of work which specifies what will be performed under this TO.
2. A list of any deliverable items that are required.
3. Any necessary drawings and/or location maps.
4. The delivery schedule or completion time which has been negotiated based on the level of difficulty, site location, etc.
5. A detailed budget submitted on form SF-424A, Budget Information - Nonconstruction Programs with a NTE amount for the task.
6. Any other detail or information necessary.

VI. Financial Support.

A. This agreement shall be funded by issuance of TOs based on the availability of BLM funding. Otley Brothers, Inc., hereby releases the BLM from all liability due to failure of Congress to appropriate funds for this agreement.

B. Funds obligated but not expended in one FY can be carried forward and expended in the subsequent FY.

C. TOs will specify the NTE amounts. The BLM shall not be obligated to pay for nor shall Otley Brothers, Inc., be obligated to perform any effort that will require the expenditure of Federal funds above the NTE amount specified in that TO.

D. Cost sharing for this agreement shall be in accordance with 43 CFR, Subpart F, Section 12.923.

E. Program income for this agreement shall be in accordance with 43 CFR, Subpart F, Section 12.924.

VII. Payments.

A. Electronic Funds Transfer Payments

1. Payment under this agreement will be made by the Government by electronic

funds transfer (through the Treasury Fedline Payment System (FEDLINE) or the Automated Clearing House (ACH)).

2. After award, but no later than 14 days before an invoice or agreement financing request is submitted, the Recipient shall designate a financial institution for receipt of electronic funds transfer payments (SF-3881), and shall submit this designation to the following address:

Bureau of Land Management  
National Business Center, BC-630  
Denver Federal Center, Bldg. 50  
PO Box 25047  
Denver, CO 80225-0047

3. If a designation has been submitted to the BLM under a previous agreement it is not necessary to complete another SF-3881 unless you are changing your designation of financial institution.

B. The Otley Brothers, Inc. shall be entitled to reimbursement or advance payment at least quarterly upon submission of an original Request for Advance or Reimbursement, Standard Form (SF) 270 to the AR. Payments shall be governed by the provisions of 43 CFR Subpart F, Section 12.922 and 12.952.

C. If advance payments are made, the Otley Brothers, Inc., must submit a Federal Cash Transaction Report, SF 272 to the Assistance Officer 15 working days following the end of each quarter.

D. Advance payments shall be made only in amounts necessary to meet current disbursement needs and shall be scheduled so that the funds are available only immediately prior to their disbursement.

#### VIII. Property Management and Disposition.

Any BLM property used or other property acquired under this agreement, including intangible property such as copyrights and patents shall be governed by the provisions of 43 CFR, Subpart F, Section 12.930 through 12.937.

The Kiger fence and all stockpiled fence materials will be the property of the U.S. Government.

#### IX. Deliverables and Reports.

BLM will submit one copy of an annual performance report to the Assistance Representative within 90 days after the end of the FY. The performance report must be prepared in accordance with 43 CFR, Subpart F, Section 12.951 and address items such as a comparison of actual accomplishments with established goals, reasons why goals may not have been met, cost overruns and any other pertinent information.

#### X. Key Officials.

A. Assistance Officer (AO)

Yuri Yoshida  
Bureau of Land Management  
Oregon/Washington State Office  
P.O. Box 2965  
Portland, OR 97208  
Telephone Number (503) 808-6229

B. Assistance Representative (AR)

Rhonda Karges  
Bureau of Land Management  
Burns District Office  
28910 Highway 20 West  
Hines, OR 97738  
Telephone Number (541) 573-4400

C. Project Inspector (PI)

Cam Swisher  
Bureau of Land Management  
Burns District Office  
28910 Highway 20 West  
Hines, OR 97738  
Telephone Number (541) 573-4400

D. Responsible Official & Project Manager

Otley Brothers, Inc.  
Attn.: Fred Otley  
HC 72, Box 31  
Diamond, OR 97722  
Telephone Number (541) 493-2469 or 493-2702

XI. Special Terms and Conditions.

A. Order of Precedence

Any inconsistency in this agreement shall be resolved by giving precedence in the following order: (a) Any national policy requirements and administrative management standards; (b) requirements of the applicable OMB Circulars and Treasury regulations; (c) 43 CFR Part 12; (d) special terms and conditions; (e) all Agreement sections, documents, exhibits, and attachments; and (f) all TO sections, documents, exhibits, and attachments.

B. Modifications

This agreement may be modified by written agreement signed by both a Responsible



Official and the Assistance Officer. Administrative changes (i.e. AO name change) which do not change the project management plan, NTE amount, etc. or otherwise affect the recipient may be signed unilaterally by the AO.

#### C. Procurement Procedures

It is a national policy to place a fair share of purchases with minority business firms. The Department of the Interior is strongly committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness. Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal:

1. Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
2. Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
3. Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
4. Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance, as appropriate, of such organizations as the Small Business Development Agency in the solicitation and utilization of small business, minority-owned firms and women's business enterprises.

#### D. Deposit of Publications

Two (2) copies of each applicable publication produced under this agreement shall be sent to the Natural Resources Library with a transmittal that identifies the sender and the publication, and states that the publication is intended for deposit in the Natural Resources Library. Publications shall be sent to the following address:

U.S. Department of the Interior  
Natural Resources Library  
Interior Service Center  
Gifts and Exchanges Section  
1849 C Street, N.W.  
Washington, D.C. 20240

#### XII. General Provisions.

A. National Policy Requirements and Administrative Management Standards. All applicable national policy requirements and administrative management standards as set forth in the Office of Management and Budget, Financial Management Division, Directory of Policy Requirements and Administrative Standards for Federal Aid Programs are incorporated by reference.

B. 43 CFR Part 12, Administrative and Audit Requirements and Cost Principles for Assistance Programs is incorporated by reference.

C. Federal Acquisition Regulation (FAR) at 48 CFR Part 31 is incorporated by reference.

D. 43 Code of Federal Regulations (CFR) Part 12, Appendix A to Subpart D, Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transaction and completed Form DI-2010 are incorporated by reference.

E. 43 CFR Part 12, Appendix C to Subpart D, Certification Regarding Drug-Free Workplace Requirements, Alternate I (Grantees other than individuals) and completed Form DI-2010 are incorporated by reference.

F. 43 CFR Part 12, Appendix C to Subpart D, Certification Regarding Drug-Free Workplace Requirements, Alternate II (Grantees Who are Individuals) and completed Form DI-2010 are incorporated by reference.

G. 31 U.S.C. 1352, Certification Regarding Lobbying and completed Form DI-2010 are incorporated by reference.

H. Single Audit Act Amendments of 1996, Public Law 104-156, 110 Stat. 1396, 31 U.S.C. 750 1-7 and 43 CFR, Part 12, is incorporated by reference.

I. Compliance With Buy American Act. Pursuant to Sec. 307 of the Department of the Interior and Related Agencies Appropriations Act of 2000, Public Law 106-113, be advised of the following:

1. None of the funds made available in this agreement may be expended by a recipient unless the recipient agrees that in expending the funds the recipient will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c; popularly known as the "Buy American Act").

2. Purchase of American-made equipment and products. In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

3. Recipient also agrees to follow the procedures in 43 CFR Part 12, Subpart E, Section 12.700 - Buy American Requirements for Assistance Programs.

J. Opposition to Any Legislation. Recipient shall not use any part of the Government's

funds for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete.

K. Endorsements. Recipient shall not publicize or otherwise circulate, promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies governmental, Departmental, bureau, or government employee endorsement of a product, service, or position which the recipient represents. No release of information relating to this award may state or imply that the Government approves of the recipient's work products, or considers the recipient's work product to be superior to other products or services.

All information submitted for publication or other public releases of information regarding this project shall carry the following disclaimer:

The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Government. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Government.

Recipient must obtain prior Government approval for any public information releases concerning this award which refer to the Department of the Interior or any bureau or employee (by name or title). The specific text, layout photographs, etc. of the proposed release must be submitted with the request for approval.

A recipient further agrees to include this provision in a subaward to and subrecipient, except for a subaward to a State government, a local government, or to a federally recognized Indian tribal Government.

L. Increasing Seat Belt Use in the United States. Recipients of grants/cooperative agreements and/or sub-awards are encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.

U.S. Department of the Interior

**Certifications Regarding Debarment, Suspension and  
Other Responsibility Matters, Drug-Free Workplace  
Requirements and Lobbying**

Persons signing this form should refer to the regulations referenced below for complete instructions:

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions - **The prospective primary participant further agrees by submitting this proposal that it will include the clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. See below for language to be used or use this form for certification and sign. (See Appendix A of Subpart D of 43 CFR Part 12.)**

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions - (See Appendix B of Subpart D of 43 CFR Part 12.)

Certification Regarding Drug-Free Workplace Requirements - Alternate I. (Grantees Other Than Individuals) and Alternate II. (Grantees Who are Individuals) - (See Appendix C of Subpart D of 43 CFR Part 12)

Signature on this form provides for compliance with certification requirements under 43 CFR Parts 12 and 18. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of the Interior determines to award the covered transaction, grant, cooperative agreement or loan.